

Serial No. 09/640.966
Page 5

REMARKS

This response is intended as a full and complete response to the Office Action mailed May 3, 2005.

Claims 1, 9, 10, 35-38 are currently pending in this application. Claims 11 and 28 are amended to correct formal matters. Claims 2-8 and 11-34 are cancelled, without prejudice or disclaimer. Claims 1, 9, and 35 are amended. Claims 1 and 35 are amended to incorporate the subject matter of cancelled claims 2-8. The amended claims contain no new matter and are supported by Applicants' original specification, including the original claims and drawings.

In view of the foregoing amendments and the following discussion, Applicants respectfully submit that none of the claims now pending in the application are anticipated or obvious over the cited references under the provisions of 35 U.S.C. §103. Thus, Applicants believe that all these claims are now in allowable form.

It is to be understood that Applicants, by amending the claims, do not acquiesce to the Examiner's characterizations of the art of record or to Applicants' subject matter recited in the pending claims. Further, Applicants are not acquiescing to the Examiner's statements as to the applicability of the prior art of record to the pending claims by filing the instant responsive amendments.

3. Claims 1-11, 13, and 16-34 Patentable over Ellis/Zdepski under §103

The Office Action rejected claims 1-11, 13, and 16-34 under 35 U.S.C. §103(a) as being unpatentable over Publication No. US 2004/0117831 for Ellis et al. ("Ellis") in view of U.S. Patent No. 6,606,746 to Zdepski et al. ("Zdepski").

A *prima facie* case of obviousness is established under §103 when one or more references are provided that were available to the inventor that teach a suggestion to combine or modify the references such that the combination or modification would appear to be sufficient to have made the claimed invention obvious to one of ordinary skill in the art.

The rejection of claims 1-11, 13, and 16-34 is respectfully traversed, because a *prima facie* case of obviousness has not been established with the combination of Ellis/Zdepski. The combination of Ellis/Zdepski fails to teach or suggest all the claimed

Serial No. 09/640.966

Page 6

elements. For example, the combination of Ellis/Zdepski fails to teach or suggest the claimed access to any audio, data, or video associated with one music channel is provided through one music interface page.

Claim 1 recites, inter alia, "providing a music interface page having included therein a listing of music channels, the listing including a particular music channel" and "retrieving and processing an audio stream, if the audio stream is associated with the selected music channel; retrieving and decoding a data stream to retrieve description information, if the data stream is associated with the selected music channel; retrieving and decoding a video stream, if the video stream is associated with the selected music channel; and providing any processed audio stream, any descriptive information, and any decoded video for the selected music channel".

In other words, access to any audio, data, or video associated with one music channel is provided through one music interface page is claimed. The combination of Ellis/Zdepski fails to teach or suggest at least these elements. By contrast, Ellis discloses completely separate listings of "music channels" and "music video channels" on separate "display screens". (Ellis, Figures 53A, 53B, pg. 21, [0220]-[0225], pg. 16, [0187]). Zdepski is generally directed to a system and method for inserting pictures within a background picture in an interactive television application. (Zdepski, title, abstract, col. 1, lines 15-20). Zdepski also fails to teach or suggest these claimed elements. Therefore, claim 1 is patentable over the combination of Ellis/Zdepski under §103.

Claims 2-8 are cancelled.

Claims 9 and 10 depend, directly or indirectly, from claim 1 and, thus, inherit the patentable subject matter of claim 1, while adding additional elements. Therefore, claims 9 and 10 are also patentable over the combination of Ellis/Zdepski under §103.

Claims 11, 13, and 16-34 are cancelled.

Accordingly, Applicants respectfully request reconsideration passage to allowance of claims 1, 9, and 10.

4. Claim 12 Patentable over Ellis/Zdepski/Hendricks under §103

Serial No. 09/640.966

Page 7

The Office Action rejected claim 12 under 35 U.S.C. §103(a) as being unpatentable over Ellis in view of Zdepski and further in view of U.S. Patent No. 5,990,927 to Hendricks et al. ("Hendricks").

Claim 12 is cancelled.

5. Claims 35-38 Patentable over Hendricks/Ellis under §103

The Office Action rejected claims 35-38 under 35 U.S.C. §103(a) as being unpatentable over Hendricks in view of Ellis.

Claim 35 recites, inter alia, "provide a music interface page having included therein a listing of music channels, the listing including a particular music channel, receive a selection of the particular music channel via depression of a key, when the particular music channel is highlighted as a result of a cursor moving over the particular music channel, retrieve and process an audio stream, if the audio stream is associated with the selected music channel, retrieve and decode a data stream to retrieve description information, if the data stream is associated with the selected music channel, retrieve and decode a video stream, if the video stream is associated with the selected music channel, and provide any processed audio stream, any descriptive information, and any decoded video for the selected music channel".

For the same reasons given above with respect to claim 1, claim 35 is patentable over Ellis. Furthermore, Hendricks also fails to teach or suggest the claimed access to any audio, data, or video associated with one music channel is provided through one music interface page. By contrast, Hendricks teaches separate displays for "digital audio program choices" and video ("regular cable TV"). (Hendricks, Figure 21, col. 40, lines 37-53). Therefore, claim 35 is patentable over the combination of Hendricks/Ellis.

Claims 36-38 depend, directly or indirectly, from claim 35 and, thus, inherit the patentable subject matter of claim 35, while adding additional elements. Therefore, claims 36-38 are also patentable over the combination of Hendricks/Ellis under §103.

Accordingly, Applicants respectfully request reconsideration passage to allowance of claims 35-38.

Serial No. 09/640.966

Page 8

CONCLUSION

Thus, Applicants submit that all the claims pending in the application are in condition for allowance. Accordingly, both reconsideration of this application and its swift passage to issue are earnestly solicited.

If, however, the Examiner believes that there are any unresolved issues requiring adverse final action in any of the claims now pending in the application, it is requested that the Examiner telephone Lea Nicholson at (732) 530-9404 so appropriate arrangements can be made for resolving such issues as expeditiously as possible.

Respectfully submitted,

June 30, 2005

Lea A. Nicholson

Lea A. Nicholson, Attorney

Reg. No. 48,346

(732) 530-9404

Moser, Patterson & Sheridan, LLP
Attorneys at Law
595 Shrewsbury Avenue, Suite 100
Shrewsbury, New Jersey 07702